

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET

P.O. BOX 942732

SACRAMENTO, CA 94234-7320



To: All County Welfare Directors
All County Administrative Officers

January 8, 1990
Letter No: 90-03

SUBJECT: IMPLEMENTATION OF THE INCOME PROVISIONS OF THE MEDICARE
CATASTROPHIC COVERAGE ACT FOR PERSONS IN LONG TERM CARE (LTC)
WITH A COMMUNITY SPOUSE

The purpose of this letter is to provide you with copies of the forms, draft procedures and draft regulations for implementing changes to income, maintenance need and share of cost criteria resulting from the Medicare Catastrophic Coverage Act (MCCA). These provisions are effective January 1, 1990 for both intake and continuing cases. Training has been conducted at multiple locations as previously discussed in All County Welfare Directors Letter No. 89-91 dated October 26, 1989.

INCOME CHANGES

The current practice of community property division of income for LTC patients and their spouses is specifically forbidden by MCCA. Instead, income will be presumed to belong to the person named on the check or other instrument with a provision that presumptions can be rebutted. Rebuttal must be considered successful where the individual clearly establishes that the income derives from a source to which that individual has no ownership or entitlement interest and is named on the check for reasons which clearly do not convey or imply any right to expend the funds for personal use.

Successful rebuttals may include representative payee status, collection of rent or other property income for another person, and other similar circumstances. Assertion that one half of the funds belong to the spouse due to community property ownership interest in income is not an acceptable rebuttal.

ALLOCATION TO SPOUSE AND/OR FAMILY MEMBERS

The allocation methodology for spouses and/or family members has been revised and divided into two separate treatments depending on whether there is a community spouse (at home spouse) as well as the type of facility in which the beneficiary resides. Specifically:



- 1) Where there are minor children in the home but no community spouse and there is a parent in LTC; or where a person in board and care or an MIA in LTC has a spouse and/or children living in the home, the existing allocation methodology will continue to apply. The family's net nonexempt income will be deducted from the maintenance need for a family of appropriate size with the remainder allocated to the family living in the home.
- 2) Where there is a community spouse living in the home and a ABD-MN spouse has LTC status, new methodology will apply. The LTC spouse may allocate an amount for maintenance of the spouse and a separate amount for the maintenance of other dependent family members. The term "dependent family member" includes the parents, minor or adult children, or siblings of either spouse providing they reside with the community spouse; specific dependency criteria must be met. The community spouse allowance will be calculated using a monthly rate (to be provided yearly by the Department) less the gross income of the community spouse, to the extent the LTC spouse actually gives those funds to the community spouse. No deduction will be allowed if the allocation is not actually transferred to the community spouse.

The dependent family member allowance is calculated by subtracting the gross income of the family member from a base allocation amount to be calculated yearly by the Department. One-third of the remainder will be allowed as the family member allowance for that person regardless of whether the person in LTC actually provides those funds to the family member or retains the money in his/her account. Should the family member not receive the funds and the person in LTC keeps those monies in his/her bank account, he/she will, of course, eventually exceed the property limits and be discontinued from Medi-Cal unless the funds are otherwise spent down. Any monies allocated to either the community spouse or family members (if actually received by the family member) are considered unearned income to that person if the person is receiving Medi-Cal, AFDC, SSI, IHSS General Assistance or any other form of aid. Therefore, it is imperative that the total allocations not exceed the income of the spouse with LTC status. Allocations are considered available income to the community spouse or family member for the purpose of determining either SOC or a grant amount. Where the spouse with LTC status has insufficient income to provide the allowable allocation to the community spouse and all family members, he/she, or the person acting on his/her behalf, must designate the amount to be received by each person to ensure accurate computation for a SOC or grant. Where the total allocations exceed the LTC person's income such a designation must be made.

All County Welfare Directors
All County Administrative Officers
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FORM REVISIONS

The MC 176W has been revised to omit calculations from Part III, for cases where the ABD-MN person with LTC status has a community spouse. Parts VI through X have been added to correctly calculate allocations to the community spouse and any dependent family members residing with the community spouse.

Also attached is revised language for the Notice of Income Changes to be sent to the ABD-MN person in LTC with a community spouse.

PROCEDURES

The Procedures Section for the MC 176W instructions has been updated. An advance copy of this section (attached) will also be released in a upcoming Manual Letter.

IMPLEMENTATION REQUIREMENTS

The MCCA specifies an implementation date of October 1, 1989 unless state legislation was needed prior to implementing. Such legislation was indeed required. The implementation date for the income criteria was set by the federal government as January 1, 1990. Therefore, both the current caseload as well as any new applications must have the SOC calculated under the revised standard effective January 1, 1990.

If you have any questions regarding the income provisions or share of cost calculations, please contact Toni Bailey at (916) 324-4967. If you have any questions regarding the maintenance needs standards, please contact Maggie Roggero at (916) 324-4966.

Sincerely,

ORIGINAL SIGNED BY
RICARDO BUSTAMONTE for

FRANK S. MARTUCCI, Chief

Enclosures:

cc: Medi-Cal Liaisons
Medi-Cal Program Consultants

Expiration Date: January 8, 1991

Questions and Answers - Spousal Impoverishment Income Training

1. Question: When does Long Term Care (LTC) status begin - the month of admission into the facility or the month following the month of admission?

Answer: LTC status is inpatient medical care which lasts more than the month of admission and is expected to last for at least one full calendar month after the month of admission. LTC status begins the first of the month following the month of admission.
2. Question: A pregnant woman currently is allowed a maintenance need for two. Effective January 1, 1990, will a pregnant community spouse receive a dependent family member allowance for her unborn child in addition to her own community spouse income allowance?

Answer: No. Only for the purpose of Medi-Cal eligibility and maintenance need allowance considerations, is an unborn considered a child. However, for purposes of MCCA, determining family member allocations from a ABD-MN spouse with LTC status to certain family members living with the community spouse, an unborn is not considered a child and will not be eligible to receive a family member allocation.
3. Question: Are Public Assistance (PA) payments received by the community spouse exempt when determining the community spouse income allowance?

Answer: No. PA payments received by the community spouse are to be included when determining the gross income of a community spouse for the purpose of determining his/her community spouse income allowance. Section VII of Allocation/Special Deduction Worksheet B, form MC 176W, contains an error and should be corrected.
4. Question: Will regulation Section 50177, Title 22, California Code of Regulations (CCR), be amended to reflect that completion of an eligibility determination may be delayed beyond the 45 and 60 day requirement, if necessary, for cases involving an institutionalized spouse, if a court order for support is sought and verification is provided that such an order is being sought?

Answer: Currently, an amendment to Section 50177 is not considered necessary. Section 50177(b)(2) allows the 45 and 60 day period to be extended for good cause if there has been a delay in the receipt of reports and information necessary to determine eligibility and the delay is beyond the control of either the applicant or the county department. Waiting for a court-ordered support decision would fit this criteria as long as verification of such an action is provided and the applicant understands and agrees that the application is to be delayed. If the applicant chooses not to delay the application, the SOC must be computed using the normal standard and the higher standard would only apply from the date of the court order forward.

5. Question: Amended Section 50167(a)(I), Title 22, CCR, states that dependency of a family member on a person with LTC status shall be documented by obtaining a written statement of dependency from the person with LTC status. If the person with LTC status is incompetent, can the county take a signed statement from the community spouse?

Answer: If a person with LTC status is not competent, the county may accept a statement, signed under penalty of perjury, from the person signing the MC 210 who may not be the spouse for the incompetent LTC person, per 50163.

6. Question: New regulation Section 50605.5, Title 22, CCR, allows for an increase in the community spouse income allocation exceptional circumstances that result in financial duress. If the administrative law judge's decision appears to misinterpret/ignore the regulations, is the county required to request a rehearing?

Answer: There are no regulations that mandate a rehearing request be filed by the county. However, the regulations permit the county to request a rehearing if the county believes the decision is incorrect. The county should exercise this ability on all hearing decision equally.

7. Question: Where did we get the term "representative payee"?

Answer: "Representative payee" is the term used by the Social Security Administration for the person named on a check to represent a Title II or Title XVI beneficiary who is unable for physical or mental reasons to handle his/her funds.

8. Question: Do we count income generated by unavailable property included in the Community Spouse Resource Allowance (CSRA) during the 90 day transfer period?
- Answer: Income earned by property being transferred is considered income to the community spouse not to the LTC spouse during the 90 day transfer period. Should the property not be transferred timely, the income would then revert to the LTC spouse.
9. Question: What do we do when a Medically Indigent (MI) person is in LTC with an aged, blind or disabled - Medically Needy (ABD-MN) spouse at home?
- Answer: Title 22, CCR Section 50653 would then be followed.
10. Question: Can the MC 176W be identified as either MC 176W-A or MC 176W-B for ordering purposes?
- Answer: No. This is one form with a two page tear-off containing both sections.
11. Question: Are we retaining the current 50605 disabled relative deduction? If so, in what order do we take deductions (i.e., PNA, upkeep of home, etc.)?
- Answer: Yes. The disabled relative deduction would be allowed after all other deductions, including the PNA.
12. Question: Must the county verify that the community spouse income allocation was actually given before granting the case, or can the case be granted and verification that the allocation was actually given be done the following month?
- Answer: At intake, verification must be obtained for the current and prior months prior to determining the SOC.
13. Question: How often must the county verify the spousal allocation is actually being given?
- Answer: Verification that the spousal allocation is actually being given must be done at redetermination, when a change is reported and whenever the worker has reason to believe a change has occurred. However, if bank statements reflecting the transfer cannot be obtained until the following month, an affidavit attesting to the transfer is acceptable until the statement is received.

14. Question: If a dependent family member (who actually receives a family member allocation) goes to work, who is responsible to report that information so the county can recompute the family member allocation?

Answer: Both the family member and the LTC patient or person acting on his/her behalf must report any changes.

15. Question: Who says it has to be a court order "against" the institutionalized spouse?

Answer: The federal law (MCCA) uses this exact terminology. As a general rule however, if the community spouse brought the action, the resulting order would be an order against the institutionalized spouse. If the order was the result of a request by the institutionalized spouse for permission to give money to the community spouse, it would not be the result of an action against the institutionalized spouse. Therefore, the order would not be an order against the institutionalized spouse and would not qualify under the law. In that case, the county would inform the beneficiary that the order did not qualify and refuse to allow the higher spousal allocation.

16. Question: If a couple has a joint checking account, how will the county be able to verify that the spousal allocation was given to the community spouse? If we require that the community spouse open an account in his/her own name, this may pose some hardship because some banks charge a fee for separate accounts.

Answer: Verification may be by a number of means, such as a check, withdrawal and expenditure of the allocation amount by the community spouse, etc.

17. Question: Should the county run family members through the IEVS program in order to verify their income when computing the family member allocation?

Answer: No, provided the case is ongoing and at-home family members are not applying for aid. Information is submitted to IEVS on applicants, beneficiaries and any other family member whose income and resources are considered in establishing eligibility and share-of-cost. If family members in the home are applying for Medi-Cal, IEVS requirements for input into the applicant system apply.

18. Question: For automatic deposits, may Social Security require that both spouses be named on the check?

Answer: No. Only where the spouse is a representative payee should both names be required on the check.

19. Question: A person with a spouse at home enters LTC as a private pay patient before January 1, 1990. Effective January 1, 1990, he/she becomes eligible for Medi-Cal. What rules for treatment of income apply?

Answer: The MCCA rules for treatment of income for all persons with LTC status becomes effective January 1, 1990; therefore, in this case the new (MCCA) rules for treatment of income apply. If this same person had become eligible for Medi-Cal prior to January 1, 1990, the new rules for treatment of income would still apply as of January 1, 1990.

NOTE: Effective January 1, 1990, counties must convert all continuing LTC cases to the new (MCCA) treatment of income rules.

20. Question: If an LTC spouse either does not give the community spouse the allocation or the community spouse puts the allocation back into the LTC spouse's account, what happens?

Answer: If the person with LTC status does not give the community spouse the income allowance, no deduction may be allowed when computing his/her SOC.

If the community spouse, after receiving the community spouse income allowance, redeposits the money into the account of the person with LTC status, no allocation can be considered to have been made. The county must readjust the share of cost, and determine if the person with LTC status is or will be over the property limit.

21. Question: Why is the allocation base for spousal and family member allocation in regulations incorporated into Section 50605, Title 22, CCR?

Answer: Ease of administration.

22. Question: If both the person with LTC status and his/her community spouse are paying Medicare premiums, can the Medicare premiums for both be deducted from the community spouse's income?

- Answer: No. The LTC patient's Medicare premium would be deducted from his/her income, and the community spouse's premium from the community spouse's income.
23. Question: Are counties under any obligation to allocate the community spouse only a certain amount so he/she can still get a zero Share of Cost Medi-Cal card?
- Answer: No. The amount actually allocated and paid must be used. The county should not advise either spouse to allocate or accept less money. The LTC spouse may, however choose to allocate a lesser amount of his/her own free will.
24. Question: Should counties advise the couple about the most beneficial way to allocate funds to the community spouse and/or dependent family members? Regulations say we are supposed to "interpret to their advantage".
- Answer: Regulations (Section 50101 (a) (2)) state we are to interpret regulations "fairly and equitably", not "to their advantage". Counties must provide information to applicant/beneficiaries but should not advise any specific course of action as it may not be the most beneficial course if all information regarding the circumstances were known.
25. Question: The MC 176W has been an optional form. Effective January 1, 1990 will the form be a required form?
- Answer: The MC 176W is a required form, though some counties are allowed to use alternative forms they have developed after state review and approval.
26. Question: In several instances, regulations require that the county obtain a signed affidavit to verify that the community spouse income allowance is actually being given to the community spouse. Will the State be providing counties with such a form?
- Answer: No. Verification affidavits have never been State issued forms due to the variety and complexity of the information that may be required. Therefore, it is incumbent upon the county to customize the language to be adequate to meet the needs of each case.

27. Question: Will there be a quality control (QC) adjustment period?
- Answer: No, there is no official grace period. However, when reviewing cases, Q.C. will consider the appropriate administrative period when determining if an error occurred.
28. Question: Are the regulations for "financial duress" final? When will they be?
- Answer: The attached draft regulations will soon be filed with the Office of Administrative Law and will be implemented at that time as emergency regulations. The final language may vary slightly based on the comments received during the public hearing.
29. Question: Must the county advise a community spouse who receives Supplemental Security Income (SSI) program benefits to report receipt of the community spouse income allowance to the SSI program?
- Answer: Yes. The county must advise the community spouse to report receipt of the community spouse income allowance to the SSI program. Failure to report that income could result in the community spouse receiving SSI based Medi-Cal for which he/she is not entitled.
30. Question: A person goes into LTC on or after September 30, 1989, but before January 1, 1990. He/she applies for Medi-Cal in January 1990, and asks for retroactive Medi-Cal for October, November and December 1989. What rules for treatment of income apply?
- Answer: For months prior to January 1, 1990, (i.e. the retroactive period October, November and December 1989), the county must apply the old rules for treatment of income. For January 1, 1990, and forward, the new rules (MCCA) for treatment of income apply.
31. Question: The MC 176W/B says to use the "actual income" of the dependent family member. What does "actual" mean?
- Answer: Gross income actually received.

32. Question: Would the income be apportioned?

Answer: No. Apportionment of income over time applies only when computing Medi-Cal share-of-cost.

33. Question: If the county is unable to adjust the SOC effective January 1, 1990, and the adjustment will result in a zero share of cost, how is the beneficiary reimbursed for the overstated share of cost for January?

Answer: In this case, the county should refer to Title 22, CCR, Section 50653.3, changes which decrease the share of cost.

34. Question: If a community spouse who receives the community spouse income allocation is also on Medi-Cal and the county is unable to give a 10 day Notice of Action (NOA) for the negative action to increase the SOC required, the county can not raise the SOC for January. The spouse with LTC status does not require a NOA because the action is not adverse. What happens to the allocation to the community spouse?

Answer: The SOC for the community spouse may not be adjusted for that month as no adequate notice was possible. The community spouse will benefit by the lower SOC and the LTC spouse will still be allowed the income deduction.

NAME: _____

CASE NO: _____

NOTICE OF INCOME CHANGES - PERSONS IN LTC WITH A SPOUSE AT HOME

A recent federal law change may affect the way your income is treated if you are in long term care (LTC) and have a spouse living in the home. Currently, one-half of the total income of yourself and your spouse is considered to belong to your spouse at home. Beginning January 1, 1990 any income received in your name will be counted when determining your share of cost (SOC). Any income received in your spouse's name may be kept by your spouse and not used to determine your share of cost. You will be allowed to give your spouse at home enough of your income to allow him/her up to \$_____ a month to live on. This amount may be increased through the Fair Hearing process if your spouse has special circumstances resulting in financial duress. Contact your EW for more information. In addition, if dependent siblings, dependent parents, dependent adult or minor children live with your spouse, you will be allowed a deduction for their support.

In order to determine the amounts to be allowed, you, or whomever is handling your financial affairs, must contact your worker and provide the following information:

1. Your spouse's name, address and telephone number, as well as the names of any dependent relatives living with your spouse.
2. The amount of income received by your spouse and any family members living with him/her.

Your spouse and/or family members must be prepared to provide check stubs, bank statements, or other verification of the amount of income they receive. The more quickly this information is given to your worker, the more quickly these allowances can begin.

You may write to your worker at:

Or you may call _____ and ask for _____

ALLOCATION/SPECIAL DEDUCTION WORKSHEET A

<p>County Use</p>		<p>Date This Form Effective</p>	
<p>Case number</p>		<p>Number in MFBU</p>	

I. CHILDREN WITH SEPARATE INCOME OR PROPERTY EXCLUDED FROM THE MFBU NO. _____

1. Maintenance need for MFBU plus excluded child(ren)	\$
2. Maintenance need for MFBU	\$
3. Excluded child(ren)'s share of maintenance need (line 1 minus line 2)	\$
4. Net nonexempt income of excluded child(ren)	\$
5. Allocation to excluded child(ren) (line 3 minus line 4)	\$

Enter above amount on MC 176 M, column III, line 5

DO NOT USE PART III FOR LTC PERSONS WITH A COMMUNITY SPOUSE - GO TO PARTS VII THROUGH X

III. ALLOCATION FROM BOARD AND CARE PERSON TO SPOUSE AND/OR CHILDREN AT HOME, OR FROM LTC PERSON WITH NO COMMUNITY SPOUSE TO CHILDREN AT HOME.

1. Maintenance need for spouse and/or children at home (other than excluded children)	\$
2. Total countable income of spouse and/or nonexcluded children	\$
3. Total allocations/deductions of spouse and/or nonexcluded children	\$
4. Total net nonexempt income of spouse and/or nonexcluded children (line 2 minus line 3)	\$
5. Unmet needs of spouse and/or nonexcluded children (line 1 minus line 5)	\$
6. Total countable income of person in LTC or board and care	\$
7. Health insurance for person in LTC or board and care	\$
8. Total net nonexempt income of person in LTC or board and care (line 6 minus line 7)	\$
9. _____	\$
10. Maintenance need for person in LTC or board and care	\$
11. Total amount needed for maintenance (add lines 9 and 10)	\$
12. Amount available for allocation to spouse and/or children (line 8 minus line 11)	\$
13. Allocation to spouse and/or children (line 5 or line 12, whichever is less)	\$

A For share of cost determination of the ABD person or the spouse of the ABD person, enter above amount on MC 176 M, column III, line 3
 B For share of cost determination of spouse and/or children at home, enter above amount on MC 176 M, column II, line 4

II. SSI/SSP OR IHSS RECIPIENT(S) IN FAMILY—INCOME AVAILABLE/ALLOCATED

1. SSI/SSP appropriate payment level (plus IHSS authorization for IHSS only)	\$
2. Actual SSI/SSP payment (or IHSS payment)	\$
3. Net nonexempt income used to determine grant (or IHSS) (line 1 minus line 2)	\$
4. Gross unearned income of SSI/SSP or IHSS recipient (other than grant or IHSS payment)	\$
5. SSI/SSP unearned income deductions and exemptions	\$
6. Net nonexempt unearned income (line 4 minus line 5)	\$
7. Gross earned income of SSI/SSP or IHSS recipient	\$
8. SSI/SSP earned income deductions and exemptions	\$
9. Net nonexempt earned income (line 7 minus line 8)	\$
10. Total net nonexempt income (add lines 6 and 9)	\$
11. If line 10 is greater than line 3, the difference is income available to the MFBU and is entered here and on MC 176 M, column I or II, line 3, as "PA recipient income available"	\$
If line 10 is less than line 3, the difference is the allocation to the SSI/SSP or IHSS recipient and is entered here and on MC 176 M, column III, line 6.	\$

Eligibility Worker Signature

Worker Number

Date of Computation

IV. AFDC MN/MI EARNED INCOME

1. Name	a.	b.	c.
Gross earnings	\$	\$	\$
3. Work expenses	\$	\$	\$
4. Net earnings (line 2 minus line 3)	\$	\$	\$
5. Enter \$30 if applicable	\$	\$	\$
6. Subtotal (line 4 minus line 5)	\$	\$	\$
7. Enter 1/3 of line 6 if applicable	\$	\$	\$
8. Subtotal (line 6 minus line 7)	\$	\$	\$
9. Dependent care	\$	\$	\$
10. Countable earnings (line 8 minus line 9)	\$	\$	\$
11. Total countable earnings of AFDC MN/MI persons (add lines 10a, b, and c)	\$	Enter this amount in line 6, column II on the MC 176 M or MC 176 M—LTC, column II, line 8	

V. A. ESTABLISHMENT OF THE STEPPARENT UNIT

1. Maintenance for: Stepparent Parent Stepparent's children # _____ Mutual children # _____	\$
2. Stepparent's gross earned income	\$
3. Mandatory/deductions (actual)	\$
Net earned income (line 2 minus line 3)	\$
4. Stepparent's gross unearned income	\$
5. Stepparent's total income (line 4 plus line 5)	\$
6. Court ordered child support	\$
7. Stepparent's net income (line 5 minus line 6)	\$

Is line 1 greater than line 8? If NO, complete Part B. ☐ Yes ☐ No

B. STEPPARENT COMPUTATION

1. Stepparent's gross earned income	\$
2. Work expenses (\$90)	\$
3. Net earned income (line 1 minus line 2)	\$
4. Stepparent's gross unearned income	\$
5. Stepparent's total income (line 3 plus line 4)	\$
6. Contributions to tax dependents	\$
7. Child support/alimony	\$
8. Stepparent's deduction (line 6 plus line 7)	\$
9. Stepparent's total net income (line 5 minus line 8)	\$
10. Maintenance need for stepparent unit: Stepparent Stepparent's children # _____ Mutual children # _____	\$
11. Stepparent's income deemed available (line 9 minus line 10). If less than 0, enter 0	\$

Enter amount in line 11, on MC 176 M or MC 176 M-LTC in column I or II, line 3 or 4 as "from stepparent."

VI. ABD INCOME DEDUCTIONS (for use with MC 176 M only)

A. NONEXEMPT UNEARNED INCOME

	a. ABD—MN	b. Spouse c. Parent
1. Social Security	\$	\$
2. Net income from property		
3. Other — itemize	\$	\$
4.	\$	\$
5. Total (add lines 1 through 4)	\$	\$
6. Deductions	\$	\$
7. Remainder (line 5 minus line 6)	\$	\$
8. Combined unearned income (add lines 7a and 7b)	\$	

Enter amount in line 8 on MC 176 M, column I, line 6.

B. NONEXEMPT EARNED INCOME

	a. ABD—MN	b. Spouse c. Parent
1. Gross earned income	\$	\$
2. Deductions	\$	\$
3. Remainder (line 1 minus line 2)	\$	\$
4. Combined unearned income (add lines 3a and 3b)	\$	

Enter amount in line 4 on MC 176 M, column I, line 10.

Specify type of deduction(s) shown in B—2:

Eligibility Worker Signature And Date

Worker Number

USE THIS FORM ONLY WHERE A COMMUNITY SPOUSE RESIDES IN THE HOME. FOR LTC PERSONS WITH CHILDREN, BUT NO COMMUNITY SPOUSE, GO TO PART III.

ALLOCATION/SPECIAL DEDUCTION WORKSHEET B

County/Line	Date This Form Effective
Case number	Number in MFBU

se name

VII. ALLOCATION FROM SPOUSE WITH LTC STATUS TO COMMUNITY SPOUSE

1. Community spouse maintenance need	\$
2. Community spouse gross income (exclude PA)	\$
3. Maximum allocation to community spouse (line 1 minus line 2)	\$
4. Amount actually paid by the LTC spouse to the community spouse	\$
5. Actual allocation to community spouse (lesser of line 3 or 4)	\$
Enter above amount on line 4, Part VIII	

VIII. INCOME OF LTC SPOUSE AVAILABLE FOR ALLOCATION

1. Total gross income	\$
2. Less PNA	\$
3. Total	\$
4. Less allocation to community spouse	\$
5. Remaining income available for allocation to other family member (line 3 minus line 4)	\$

IX. ALLOCATION TO FAMILY MEMBERS RESIDING WITH COMMUNITY SPOUSE

Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$
3. Actual income of family member	\$
4. Net allocation base (line 2 minus line 3)	\$
5. Actual allocation (enter 1/3 of line 4)	\$
Enter above amount on line 2, Part X	

B. 1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$
3. Actual income of family member	\$
4. Net allocation base (line 2 minus line 3)	\$
5. Actual allocation (enter 1/3 of line 4)	\$
Enter above amount on line 3, Part X	

IF LINE 5, PART VIII IS LESS THAN THE TOTAL OF LINE 4, OF ALL SECTIONS IN PART IX, THE LTC SPOUSE MUST CHOOSE WHICH FAMILY MEMBER TO ALLOCATE THE FUNDS TO. NOTE THESE AMOUNTS IN PART X TO THE APPROPRIATE PERSON.

THE TOTAL IN LINE 7, PART X CANNOT EXCEED THE NET INCOME OF THE LTC SPOUSE AS DETERMINED IN LINE 3, PART VIII.

X. TOTAL ALLOCATION FROM LTC PERSON TO COMMUNITY SPOUSE AND FAMILY MEMBERS

1. Actual allocation community spouse (Part VII line 5)	\$
2. Allocation to family member (Part IX A, line 5)	\$
3. Allocation to family member (Part IX B, line 5)	\$
4. Allocation to family member (Part IX C, line 5)	\$
5. Allocation to family member (Part IX D, line 5)	\$
6. Allocation to family member (Part IX E, line 5)	\$
7. Total allocation from LTC spouse (Total lines 1 thru 6)	\$
A For share of cost determination of the LTC person, enter above amt on MC 176 M, Column III, line 3 or MC 176 M—LTC Column III, line 3	
B For share of cost determination of community spouse and family members at home, enter above amounts on the MC 176 M, Column III of the person receiving the allocation.	

NOTES:

IF YOU NEED TO ALLOCATE FOR MORE FAMILY MEMBERS, SEE REVERSE FOR ADDITIONAL SPACES.

**ALLOCATION TO FAMILY MEMBERS RESIDING
WITH COMMUNITY SPOUSE (IX CONTINUED)**

C.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount on line 4, Part X	

D.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount on line 5, Part X	

E.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount on line 6, Part X	

F.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

G.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

H.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

I.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

J.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

K.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

L.

1. Allocation for: Name: _____ Relationship: _____	
2. Maximum allocation base	\$ _____
3. Actual gross income of family member	\$ _____
4. Net allocation base (line 2 minus line 3)	\$ _____
5. Actual allocation (enter 1/3 of line 4)	\$ _____
Enter above amount in NOTES	

INSTRUCTIONS
ALLOCATION/SPECIAL DEDUCTION WORKSHEET
FORM MC 176 W
(1/90)

Allocation/Special Deduction Worksheet

Form MC 176 W, Allocation/Special Deduction Worksheet, is used to compute allocations, certain income deductions, and the amount of stepparent income available in stepparent situations. Only those portions of the form that are applicable to the case, if any, should be completed.

Instructions for Completion

Allocation/Special Deduction Worksheet A

Identification

Enter the case name, case number, number of persons in the Medi-Cal Family Budget Unit (MFBU), and the effective date of the computation of the form.

Part I. Children with Separate Income or Property Excluded From the MFBU

This portion of the form is completed when one or more children with separate income or property are excluded from the MFBU, provided they are not part of the stepparent unit in a stepparent situation.

Enter the number of children who are excluded from the MFBU. This will include all excluded children in an intact family or an excluded separate child of the parent in a stepparent situation. A child who is ineligible for Medi-Cal and also has separate income or property may either be an ineligible member of the MFBU or excluded.

1. Enter the maintenance need of the MFBU including the excluded children.
2. Enter the actual maintenance need for the MFBU, less the excluded children.
3. Subtract line 2 from line 1. This is the excluded children(s) share of the maintenance need.
4. Enter the total net nonexempt income of all the excluded children. Compute the net nonexempt income using the income exemption and deductions applicable to Aid to Families with Dependent Children - Medically Needy (AFDC-MN) and Medically Indigent (MI) children.
5. Subtract line 4 from line 3. This is the allocation to the excluded children. If less than zero, enter zero. Enter the allocation on form MC 176M, Column III, line 5.

Part II. Supplemental Security Income/State Supplementary Payment (SSI/SSP) or In-Home Supportive Services (IHSS) Recipient(s) in Family -- Income Available/Allocated

This portion of the form is completed when one or more family members receive an SSI/SSP grant or an IHSS payment. These persons are not included in the MFBU but a computation must be made to determine how much of the family's income was used to compute the SSI/SSP grant or IHSS eligibility or how much of the aided person's income was allocated by the cash program to the MFBU.

1. Enter the appropriate SSI/SSP payment level based on living situation, for the SSI/SSP recipient(s). For IHSS recipients, enter the appropriate SSI/SSP payment level plus the total dollar amount of IHSS care authorized. This includes both the amount the county will pay and the amount the recipient must pay.

When both members of a couple are aged, blind, or disabled but only one is receiving IHSS, the appropriate payment level is one-half of the amount for a couple.
2. For SSI/SSP recipient, enter the actual SSI/SSP grant received. For IHSS recipients, enter the IHSS amount to be paid by the county.
3. Subtract line 2 from line 1. This is the amount of net nonexempt income used to determine the grant or IHSS eligibility.
4. Enter the gross unearned income of the SSI/SSP or IHSS recipient(s). Do not include the SSI/SSP grant or the IHSS payment.
5. Enter the total of all applicable unearned income exemptions and deductions for SSI/SSP recipient(s) (including the \$20 any income deduction).
6. Subtract line 5 from line 4. This is the SSI/SSP or IHSS recipient's net nonexempt unearned income.
7. Enter the gross earned income of the SSI/SSP or IHSS recipient(s).
8. Enter the total of all SSI/SSP earned income exemptions and deductions (including the \$65 plus one-half deduction plus work expenses for the blind, etc),
9. Subtract line 8 from line 7. This is the SSI/SSP or IHSS recipient's net nonexempt earned income.
10. Add line 6 and line 9. This is the SSI/SSP or IHSS recipient's total net nonexempt income.
11. If line 10 is greater than line 3, enter the difference here. This means that a portion of the SSI/SSP or IHSS recipient's income has not

been used in determining his/her grant or IHSS eligibility and is, therefore, income to the MFBU. Enter this amount on the MC 176M, Column I or II, line 3, as "SSI/SSP (and/or IHSS) recipient income available".

12. If line 10 is less than line 3, enter the difference here. This is the amount of income of the MFBU that was used to determine the SSI/SSP recipient's grant or the IHSS recipient's eligibility. Enter this amount on the MC 176M, Column III, line 6 as a deduction.

Part III. Allocation From Board and Care Person to Spouse and/or Children at Home or From LTC Person with no Community Spouse to Children at Home.

This portion of the form is completed when: 1) an aged, blind, or disabled MN person or the spouse of an aged, blind, or disabled person is in board and care and has a spouse and/or children living at home; 2) an aged, blind or disabled MN person with Long Term Care (LTC) status with no community spouse, has children at home; or 3) an MI person LTC has a spouse and/or children living at home, and no community spouse, has children at home. This applies provided the spouse and/or children of the board and care person or children of the person with LTC status and no spouse are in separate MFBUs. (See Section 50377.) Do not complete this portion for family members who are Public Assistance recipients or for ABD MN persons with LTC status who have a community spouse.

NOTE: ABD MN persons with LTC status and a community spouse and/or children are computed using Parts VII through X.

1. Enter the maintenance need for spouse and/or nonexcluded children at home. Do not include excluded children. Enter the maintenance need for the spouse and/or the children as determined according to Title 22, Section 50603.
2. Enter the total countable income of the spouse and/or nonexcluded children at home. Use all countable income allowed to an AFDC MN or MI MFBU.
3. Enter the total allocations and deductions of the spouse and/or children at home, using the allocations and deductions allowed to AFDC-MN or MI MFBU's and enter on this line.
4. Subtract line 3 from line 2. This is the total net countable income.
5. Subtract line 4 from line 1. If less than zero, enter zero. This is the unmet need of the spouse and/or children at home. If the unmet need is zero, do not complete the rest of this section. There will be no allocation. If the calculation shows an unmet need, complete the remainder of this section.
6. Enter the total countable income of the person in LTC or board and care from his/her MC 176M-LTC, Column III, line 7.
7. Enter the health insurance premium paid by the person in LTC or board and care for health insurance for himself/herself.
8. Subtract line 7 from line 6. This is the total net nonexempt income of person in LTC or board and care.
9. If the person in LTC is allowed an amount for the support of a disabled relative, include this amount here.
10. Enter the \$35 maintenance need and the unavailable amount to pay the remainder B & C per Section 50515 if the person is in LTC or the maintenance need for one if the person is in board and care. If the person is in LTC and is allowed an additional amount for upkeep of the home or support of a disabled relative, include this amount here.
11. Add lines 9 and 10. This is the total amount needed for maintenance.
12. Subtract line 11 from line 8. This is the maximum amount of income the person in board and care has available to allocate to his/her spouse and/or children at home, which the person with LTC status with no spouse has to allocate his/her children at home.
13. Enter the lesser of line 5 or line 12. This is the allocation from the board and care person to his/her spouse and/or children or from the person with LTC status and no spouse to his/her children at home.

- a. To determine the share of cost for the LTC or board and care person, enter this amount on the LTC or board and care person's MC 176M-LTC, Column III, line 8, as a deduction.
- b. To determine the share of cost for the spouse and/or children at home, enter this amount on the spouse and/or children's MC 176M, Column III, line 3, as unearned income.

Eligibility Worker Signature

The worker must sign this form here.

Worker Number

The worker number must be entered here.

Date of Computation

The calculation date must be entered here.

Part IV. AFDC MN/MI Earned Income Deductions

This portion of the form is completed when AFDC MN and MI MFBU members (both eligible and ineligible) have earned income.

1. a., b., and c. Enter the name(s) of the AFDC MN and MI MFBU member(s) with earned income.
2. a., b., and c. Enter the gross earned income under the column for the appropriate name.
3. a., b., and c. Enter the \$90 work related expense (WRE) deduction plus any work expenses allowed under Section 50553.1.
4. a., b., and c. Subtract line 3 from line 2. This is the net earned income of each person.
5. a., b., and c. Enter \$30, if applicable.

NOTE: This can be either the \$30 of the \$30 plus one-third, if applicable, to certain persons in receipt of AFDC in one of the four previous months or it can be the \$30 of the eight consecutive month period immediately following four months of \$30 plus one-third. (See Section 50553.1 for applicability of the deductions).

6. a., b., and c. Subtract line 5 from line 4. This is the countable subtotal for each person with earnings.
7. a., b., and c. Enter one-third of line 6, if applicable, for each person with earnings. If the one-third deduction is not applicable, enter zero.
8. a., b., and c. Subtract line 7 from line 6. This is the total

countable earned income of each person.

9. a., b., and c. Enter the deduction for dependent care, if applicable, allowed to each person with earnings.
10. a., b., and c. Subtract line 9 from line 8. This is the total countable earned income of each person with earnings.
11. Add lines 10a., b., and c., as appropriate. This is the total countable earned income of the AFDC MN and MI MFBU members. Enter this amount in line 6, Column II, of the MC 176M, or line 8, Column II of the MC 176M - LTC.

Part V. Stepparent Computation

This portion of the form is completed only when there is a stepparent situation and the applicant states that only the children of one parent wishes to receive Medi-Cal.

Part A

This part is completed to determine whether a stepparent unit may be established or whether the entire family must be included in the MFBU.

1. Enter the maintenance need for the potential stepparent unit. This includes the:
 - a. Stepparent
 - b. Parent
 - c. Stepparent's separate children, if any (state the number).
 - d. Mutual children, if any (state the number).
2. Enter the stepparent's gross earned income.
3. Enter the stepparent's actual mandatory deductions.
 - a. RSDI
 - b. Federal and State taxes
 - c. State Disability
4. Subtract line 3 from line 2. This is the stepparent's net earned income.
5. Enter the stepparent's gross unearned income.
6. Add lines 4 and 5. This is the stepparent's total income.
7. Enter any court ordered child support obligation of the stepparent.
8. Subtract line 7 from line 6. This is the stepparent's net income.

Check "yes" if line 1 is greater than line 8. Check "no" if line 8 is greater than line 1.

If "yes" is checked, the stepparent has insufficient income to meet the needs of the stepparent unit and the entire family must be in the same MFBU.

If "no" is checked, the stepparent has sufficient income to meet the needs of the stepparent unit and the stepparent unit must be established. The separate children of one parent are the only ones to receive Medi-Cal. The parent will be an ineligible member of the MFBU. Part B must be completed to determine what income is deemed available from the stepparent to the children applying for Medi-Cal.

Part B

1. Enter the stepparent's gross earned income.
2. Enter the \$90 work expense deduction.
3. Subtract line 2 from line 1. This is the stepparent's net earned income.
4. Enter the stepparent's gross unearned income.
5. Add lines 3 and 4. This is the stepparent's total income.
6. Enter the amount of income, if any, that the stepparent contributes to tax dependents who are not members of the stepparent unit or the MFBU. (such as voluntary court ordered support payments where the stepparent is allowed to claim the child, etc).
7. Enter the amount of child support/alimony paid by the stepparent in addition to the contributions entered in line 6.
8. Add lines 6 and 7. This is the total of the stepparent's additional deductions.
9. Subtract line 8 from line 7. This is the stepparent's total countable income.
10. Enter the maintenance need for the stepparent unit. This should include:
 - a. Stepparent.
 - b. Stepparent's separate children, if any (state number).
 - c. Mutual children, if any (state number).

NOTE: The parent is not included here, as the parent is now an ineligible member of the children's MFBU.

11. Subtract line 10 from line 9. If less than zero, enter zero. Any amount other than zero is considered the stepparent's income deemed available to the MFBU. Enter this amount on MC 196M or M-LTC in Column I or II, line 3 or 4, as "from stepparent".

Part IV. Aged, Blind, and Disabled (ABD) Income Deductions

This portion of the form is used only in conjunction with the MC 176M and is completed only when any of the following deductions apply to a person's income (listed in Column I, MC 176M):

Educational Expenses	Section 50547
Absent Parent Support	Section 50541
Student Deduction	Section 50551
\$30 Plus One-Third, or \$30	Section 50551.1
Work Experience for the Blind	Section 50551.4
Income for Self-Support	Section 50551.5
Court ordered child support and/or alimony paid <u>Gibbons v. Rank</u>	

- A. In Column a, enter the unearned income of persons applying as ABD-MN members. In Column b, enter the income of the spouse or parent(s) of the ABD-MN members.
1. Enter the amount of Social Security income.
 2. Enter the net income from property.
 - 3./4. Enter and itemize any other unearned income received.
 5. Add lines 1.a through 4.a. This is the gross unearned income of persons applying as ABD-MN. Add lines 1.b through 4.b. This is the gross unearned income of the spouse or parent of the ABD-MN members.
 6. In Column a, enter the total of the deductions listed above which are applicable to the income of the ABD-MN members. In Column b, enter the total of the deductions listed above which are applicable to the income of the spouse or parent(s).
 7. Subtract line 6.a from line 5.a. This is the net unearned income of the ABD-MN members. Subtract line 6.b from line 5.b. This is the net unearned income of the spouse or parent.
 8. Add lines 7.a and 7.b. This is the combined unearned income of the ABD-MN members and their spouse/parent(s). Enter this amount on line 6, Column I, of the MC 176M.
- B. In Column a, enter the earned income of persons applying as ABD-MN. In Column b, enter the earned income of the spouse or parent of the persons applying as ABD-MN.

1. Enter the gross earned income.
2. Enter the deductions listed above which are applicable to the earnings of the ABD-MN members in Column a. Enter the deductions listed above which are applicable to the earnings of the spouse or parent in Column b. (Specify the type of deductions in the space provided.)
3. Subtract line 2.a from line 1.a. This is the remaining earned income of the ABD-MN members. Subtract line 2.b from line 2.a. This is the remaining earned income of the ABD-MN members. Subtract line 2.b from line 2.a. This is the remaining earned income of the spouse or parent.
4. Add lines 3.a and 3.b. This is the combined earned income of the ABD-MN members and their spouse/parent. Enter this amount on line 10, Column I, of the MC 176M.

Eligibility Worker Signature and Date

The eligibility worker must enter his/her signature and date.

Worker Number

The eligibility worker must enter his/her worker number.

Allocation/Special Worksheet B

Identification

Enter the case name, case number, number of persons in the Medi-Cal Family Budget Unit (MFBU), and the effective date of the calculations.

NOTE: Use this form only where a community spouse resides in the home. For LTC persons with children but no community spouse, go to Part III.

VII. Allocation From Spouse With LTC Status to Community Spouse

1. Enter the community spouse maintenance need as stated in MEM Procedures Section 11A.
2. Enter the community spouse's gross income. Include Public Assistance (PA) cash grants. There is an error on the current form which states PA is not to be included.
3. Subtract line 2 from line 1. This is the maximum allocation which can be made to the community spouse from the LTC spouse.
4. Enter the actual amount paid by the LTC spouse to the community spouse and only that amount may be deducted from the income of the LTC spouse as a spousal allowance.
5. The lesser of line 3 or line 4 is the actual allocation to the

community spouse and only that amount may be deducted from the income of the LTC spouse as a spousal allowance. Enter the amount of line 5, Part VII on line 4, Part VIII.

VIII. Income of LTC Spouse Available for Allocation

1. Enter the total gross income of the LTC spouse.
2. Subtract the Personal Need Allowance (PNA) from the total gross income of the LTC spouse.
3. This is the net income of the LTC spouse available for allocation.
4. Subtract the lesser of line 3 or line 4, Part IV. This is the allocation to the community spouse.
5. The remainder is the income available for allocation to other family members.

NOTE: If line 5, Part VIII is less than the total of line 4 of all Sections in Part IX, the LTC spouse must choose which dependent family members will receive the allocation. Because some dependent family members may be on either Medi-Cal or some form of PA and any allocation will be considered income, it is imperative this choice be made.

IX. Allocation to Dependent Family Members Residing With Community Spouse

A dependent family member is an individual who meets the criteria specified in Section 50563.5.

A. through L.

1. Enter the name and relationship of the dependent family member residing with the community spouse, if applicable.
2. Enter the maximum allocation base amount from Procedure 11A.
3. Enter the actual gross income of the family member.
4. Subtract line 3 from line 2. This is the net allocation base amount.
5. Multiply line 4 by 1/3. This is the actual allowable allocation amount to the dependent family member residing with the community spouse.

Enter the amount on line 5, Part IX, on the appropriate line.

Enter the amount of lines 5, Part IX, B on line 3, Part X unless the LTC person has insufficient funds to cover the total. Should that occur, the LTC person must choose which dependent family members will receive the allocation and the amount of the allocation. In that case, only the specified amounts will be shown for each person.

X. Total Allocation From LTC Person to Community Spouse and Family Members

1. Enter the amount from line 5, Part VII. This is the actual allocation to the community spouse.
2. Enter the amount from line 5, Part IX, A. This is the allocation to the family member.
3. Enter the amount from line 5, Part IX, B. This is the allocation to the family member.
4. Enter the amount from line 5, Part IX, C. This is the allocation to the family member.
5. Enter the amount from line 5, Part IX, D. This is the allocation to the family member.
6. Enter the amount from line 5, Part IX, E. This is the allocation to the family member.
7. Total line 1 through line 6. This is the total allocation from the LTC spouse. If more dependent family members must be listed, extend Part X in the section marked NOTES.

NOTE: The total in line 7, Part X cannot exceed the net income of the LTC spouse as determined in line 3, Part VIII.

- A. For share of cost determination of the LTC person, enter the total of line 1 through line 6 on the MC 176M-LTC, Column III, line 8 or MC 176M, Column III, line 3 if used instead for the LTC spouse.
- B. For share of cost determination of the community spouse and dependent family members at home, enter the total of line 2 through 6 on the MC 176M, Column III, line 3.

NOTES:

This section may be used for either worker notations or to extend Part X.

MAINTENANCE NEED LEVELS EFFECTIVE JULY 1, 1989*

<u>Number of Persons in MFBU</u>	<u>Maintenance Need</u>
1 Person in all situations	\$ 600
2 Persons	\$ 750
2 Adults	\$ 934
3 Persons	\$ 934
4 Persons	\$1,100
5 Persons	\$1,259
6 Persons	\$1,417
7 Persons	\$1,550
8 Persons	\$1,692
9 Persons	\$1,825
10 Persons	\$1,959

For each additional person add \$14.

The maintenance need level for Medi-Cal only beneficiaries in long-term care remains at \$35.

The home upkeep allowance specified in Title 22 CCR, Section 50605(c)(1) will be \$209.

The home upkeep allowance specified in Title 22 CCR, Section 50605(c)(2) and (3) will be \$138.

*Based on 4.61% COLA in the AFDC Maximum Aid Payment (MAP)

Base Allocation for Community Spouse of a person with LTC Status effective 1/1/90 = \$1,565.

Base Allocation for Dependent Relative Living with the Community Spouse of a person with LTC Status effective 1/1/90 - 6/30/91 = \$851.

50036.6. Dependency. Dependency means receipt by a family member of medical, financial or emotional support from a person with LTC status.

Note: Authority cited: sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Section 14005.1, 14005.7, 14005.12 Welfare and Institutions Code and Section 1396r-5 United States Code.

50056. Long-Term Care (LTC) Status. Long-term care (LTC) status means inpatient medical care which lasts for more than the month of admission and is expected to last for at least one full calendar month after the month of admission.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Sections 14050.3 Welfare and Institutions Code and Section 1396r-5
United States Code.

50056.5 Long-Term Care (LTC) Facility. A long-term care (LTC) facility is a medical institution or nursing facility as defined in Sections 50048 and 50064.7.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference:

Section

50064.7. Nursing Facility. A nursing facility is a intermediate care facility or a skilled nursing facility.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Section Welfare and Institutions Code and Section United States Code.

50071. Persons Living in the Home. (a) Persons living in the home means all of the following:

(1) Persons physically present in the home;_

(2) Persons temporarily absent from the home because of hospitalization, visiting, vacation, trips in connection with work, or because of similar reasons as limited by (d).

(3) Persons away at school or vocational training who will resume living in the home as evidenced by the person returning home for vacations, weekends and at other times.

(b) A temporary absence is normally one in which the person leaves and returns to the home in the same month or the following month.

(c) Whether a person is living in the home while in an LTC facility or board and care shall be determined in accordance with Section 50377.

No change to the remainder of the regulation.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Section 14008, Welfare and Institutions Code.

50167. Verification --Prior to Approval.

Subsection (a)(1 - 7 [G]) Remain the same.

Subsection (7) (H) - (V) is amended as follows:

(H) Deductible income allocations, as provided in Section 50563.3, from a person with LTC status to his/her community spouse, which shall be verified by viewing one of the following:

1. Canceled checks or copies of canceled checks written by the spouse with LTC status to the community spouse;

2. Statements from checking, savings or trust fund accounts which indicate the income allocation was directly transferred or deposited by the person with LTC status or the person acting on his behalf to the account of the community spouse.

3. In the case where the income allocation to the community spouse is in cash, each spouse shall sign an affidavit under penalty of perjury that such an allocation was given.

Add new subsection (7) (I):

(I) (a) Dependency of a family member upon a person with LTC status, as defined in 50036.6, which shall be documented by obtaining a written statement from the person with LTC status. This statement shall provide proof of the dependency. If the statement of dependency is questionable, the county shall require additional documentation such as:

1. a statement from the dependent family member's physician stating his/her knowledge of medical or emotional support of the dependent family member upon

a person with LTC status.

2. a statement, signed under penalty of perjury, from the spouse at home documenting financial dependency of the family member upon a person with LTC status.

(b) No written statement or verification shall be required in the case of a blind or disabled adult child; however, dependency shall be documented in the case file.

(c) No written statement or verification shall be required in the case of a child 18 years of age or younger.

(J) (H) The market value of real property, other than the principal residence, which shall be verified by viewing any of the following:

1. A current incorporated tax statement from the County Tax Assessor's Office.

2. Records maintained by the County Tax Assessor.

3. A written statement from a qualified real estate appraiser which gives the appraisal value of the property, when the applicant chooses to meet the conditions of Section 50412 (a) (3).

(K) (I) Checking or savings account balances, which shall be verified by viewing either of the following:

1. A current account statement from the institutions holding the funds.

2. Signed correspondence from the institution holding the funds.

(L) J) The value of stocks, bonds and mutual funds, which shall be verified by both:

1. Viewing the certificate or a signed statement from the issuing institution stating a description of the investment, including the number of shares owned.

2. Taking one of the following actions:

a. Telephone contact with a recognized stock exchange broker to establish the current selling price of the property.

b. Establishment of the current selling price of the property through listings in a current newspaper.

(M) K) U. S. Savings Bonds values, which shall be verified by viewing the bond and by contacting any bank or institution where such bonds may be liquidated.

(N) (L) The value of deeds of trusts, mortgages and other promissory notes, which shall be verified by both:

1. Viewing documents which state a description of the item.

2. Taking one of the following actions:

- a. Viewing documents from the lender which establish the principal amount remaining on the note.
- b. Viewing an appraisal obtained from a party qualified to appraise mortgages and notes as described in Section 50441 (c) (2).
- c. Making a telephone contact with a recognized broker who buys, sells or appraises such items.

(O) M) The value of nonexempt motor vehicles, boats, campers or trailers, which shall be verified by viewing the appropriate document as follows:

- 1. Vehicle registration.
- 2. Appraisal statements when obtained pursuant to Sections 50461 and 50463.

(P) (N) The cash surrender value of nonexempt life insurance policies, which shall be verified by viewing either of the following: .pml.00".lm.50"

- 1. The value tables included in the policy.
- 2. Signed correspondence from the carrier indicating the current value.

(Q) (Ø) The value of nonexempt jewelry, which shall be verified by reviewing the appraisal statements.

(R) (P) The value of burial trusts or prepaid burial contracts, which shall be verified by viewing the actual trust or contract or by viewing signed correspondence from the trustor or contractor which details its value.

(S) (Q) The value of nonexempt property held in trust, which shall be verified by viewing either of the following:

1. A document indicating the trust's current value, executed by the trustor or executor.
2. An appraisal of the property obtained by the applicant from an agent qualified to appraise such property.

(T) (R) Encumbrances of record on any item of property subject to verification, which shall be verified by either of the following:

1. A payment book issued by the institution or person holding the encumbrance which indicates the current amount of the encumbrance.
2. Written correspondence stating the amount of the encumbrance obtained by the applicant from the institution or person holding the encumbrance.

(U) (S) The value of oil leases or mineral rights which shall be verified by one of the following:

1. Written or telephone contact with a member of a recognized professional appraisal society which establishes the current market value of the lease or right.

2. Viewing records maintained by the County Tax Assessor where the lease or right is located.

3. Written or telephone contact with the company/organization developing the natural resource which establishes the current market value.

(V) (T) Health care benefits available through employment, retirement or military service which shall be verified by viewing those insurance policies which specifically name the applicant, health benefit identification cards or letters from health care benefit providers. Health care benefits available through work related injuries or settlements from prior injuries shall be verified by viewing letters from the Workmen's Compensation Board, employers or insurance companies.

(W) (U) Application for unconditionally available income as determined in accordance with Section 50186 which shall be verified by viewing:

1. A Veterans Benefit Referral form, referral for veterans benefits.

2. Application printouts for disability insurance benefits.

3. Application printouts for unemployment insurance benefits.

4. Application receipts for OASDI benefits.

5. Application receipts for any other unconditionally available income source.

(X) (V) Employee retirement contributions and other employee benefit contributions which shall be verified by viewing a statement from the employer.

(8) Pregnant or a medically indigent person, age 21 years or older, shall be verified by obtaining a letter of verification from either a physician or a person certified as a nurse practitioner, midwife or physician's assistant.

(9) Property as defined in Section 50425 (a) (7) is listed for sale with a licensed real estate broker at its fair market value and a bona fide attempt is being made to sell such property. This shall be verified by viewing a listing contract and appraisal from a qualified real estate

appraiser.

(b) The provisions of this section apply to all items listed in (A) at:

(1) Initial application and reapplication.

(2) The time a change is reported or at redetermination for items not previously verified.

(3) Redetermination for items which the county determines could have appreciated in value since the last verification.

(c) The applicant or the county shall make a diligent search to obtain documentation necessary to verify items (a) (7) (A) through (a) (7) (V) and (a) (9) above. such a search shall include, at a minimum, one contact with the appropriate person/organization from which this documentation could be obtained. When the county determines that such documentation cannot be obtained either by the applicant or by county within the promptness requirements listed in Section 50177, the county shall:

(1) List and retain in the case record all actions taken to obtain documentation required for verification.

(2) Obtain from the applicant, and retain in the case record, an affidavit dated and signed by the applicant under penalty of perjury which lists a description and value of any item for which documentation for verification purposes was determined not available.

(3) Obtain a signed and dated affidavit from the applicant under penalty of perjury which lists the amounts of any earned or unearned income received and retain this document in the case record. .pm0.0"

Note: Authority cited: Sections 10725, 10740, 14006.1 and 14124.5, Welfare and Institutions Code.

Reference: Sections 12305.5, 14001, 14005.1, 14003, 14005.4, 14005.7, 14018, 14051, Welfare and Institutions Code; and Sections 25.6, 34.5, 34.7, 34.9, and 34.10, Civil Code; and 42 Code of Federal Regulations, 435.948; and Section 1396r-5, United State Code.

Section 50512. Ownership of Income. (a) Except as specified in (b), income is considered to belong to the person who:

(1) Is named on a negotiable instrument.

(2) Is given cash.

(3) Receives the income in kind.

~~(b) - In the case of a married couple, it shall be presumed that each spouse has one-half community property ownership interest in the total monthly gross earned income of both spouses providing all of the following conditions exist:~~

~~(1) - One spouse is in LTC and the other spouse is noninstitutionalized;~~

~~(2) - There is no break in marital ties;~~

~~(3) - The LTC spouse receives an amount of income which is greater than the amount of income received by the noninstitutionalized spouse;~~

(b) Payments made in the name of more than one person shall be considered available in proportion to each person's ownership interest in the income source as specified in the ownership instrument except as specified in (c) through (f).

(c) Where income is received in the name of more than one person and there is no instrument establishing ownership proportions, the income shall be evenly divided among all named persons.

~~(e) -The-community-property-ownership-presumption-in-(b)-shall-be-rebuttable-by either-spouse-who-provides-evidence-that-all-or-a-portion-of-the-total-income is-owned-separately-by-one-spouse-~~

(d) Community property laws shall not be a consideration in determining the ownership or availability of the income of either spouse.

(e) Income received in the name of an applicant/beneficiary shall not be considered available where the evidence clearly establishes that he/she is receiving the income as a representative payee, conservator, or guardian on behalf of another person and the payee has no ownership interest in the income or its source.

(f) Income from an exempt trust shall be considered available as specified by the trust documents. In the absence of specific provision in the trust document, the income shall be considered available as specified in (a) through (e) above.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Sections 14005.4, 14005.7 and 14005.16 Welfare and Institutions Code; and Sections 687, 5105 and 5110, Civil Code; and Section 1396r-5, United States Code.

Section 50563. Treatment of Income -- Aged, Blind or Disabled MN Person or Person's Spouse in Who Has LTC Status or Resides in Board and Care. (a)-When ~~an aged, blind or disabled MN person or the spouse of that person is in or board and care and that person has a spouse and/or children who are not public assistance recipients;~~

(a) The provisions of this section shall be applied to any MFBU which includes an aged, blind or disabled person, or in the case of a resident of board and care, the spouse of that person, provided one of the following conditions are met:

(1) The person with LTC status has children but no community spouse residing in the home and those children are not on public assistance.

(2) The person in board and care has a spouse and or children residing in the home and neither the spouse or children are receiving public assistance.

(b) The the income of that the person in board and care or with LTC status shall be treated in the following manner, beginning the first of the month the spouses, or the parent and children, are in separate MFBUs:

(1) The net nonexempt income of the person in LFG-or board and care or with LTC status which is in excess of the appropriate maintenance need for

that person in accordance with the provisions of Article 11 of this chapter shall be allocated to the spouse and/or children as follows:

(A) When the family is applying for Medi-Cal, determine the maintenance need for the spouse and or children other than any children excluded from the MFBU.

(B) When only the person in-LTG-er board and care or with LTC status is applying for Medi-Cal, determine the maintenance need for the spouse and/or all the children.

(C) Subtract the net nonexempt income of the spouse and/or children, other than the excluded children, from the amount determined in (A) or (B). This is the amount that shall be allocated to the spouse and/or children from the net nonexempt income of the MN person in LTC er board and care er with LTC status which is in excess of the maintenance need as determined in (1).

(2) If the person in LTC-er board and care or with LTC status is a stepparent:

(A) The stepchildren shall be treated as natural children of the person in LTC-er board and care or with LTC status. For the purpose of this regulation, the stepchildren of a person with LTC status shall only be treated as the natural children of that person providing there is no community spouse in the home, and the stepchildren reside in the home of the person with LTC status.

(B) The allocation shall be determined in accordance with (1).

(b) In no event shall any income be allocated from the family members living at home to the person in board and care or long-term-care with LTC status or-board-and-care.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Sections 14005.1, 14005.4, 14005.7, and 14008, Welfare and Institutions Code; and Section 1396r-5 United States code.

Section 50563.5. Treatment of Income--Aged, Blind or Disabled MN Persons With LTC Status Who Have a Community Spouse. (a) When an aged, blind or disabled person with LTC status has a community spouse residing in the home, the income of the person with LTC status shall be treated in the following manner, beginning the first of the month the person with LTC status is in a separate MFBU from his/her community spouse:

(1) Determine the gross nonexempt income of the person with LTC status which is in excess of the appropriate maintenance need for that person in accordance with the provisions of Section 50605 of this chapter.

(2) Determine the maintenance need for the community spouse in accordance with Section 50605(f)(1). Deduct from that maintenance need the total gross monthly income of the community spouse. This remainder is the community spouse allowance.

(3) Determine the maximum allocation base for each family member in accordance with Section 50605(f)(2). Deduct from the maximum allocation base each family member the gross monthly income of that family member. One third of the remainder shall be considered the family member allowance for that person. The total of all family member allowances shall be considered the total family member allowance.

(A) For the purpose of this section, family member shall be defined as the minor or dependent children, dependent parents, or dependent siblings of either spouse provided these individuals reside with the community spouse.

(4) Add the community spouse allowance, as limited by (b) with the total family member allowance. This is the amount which shall be allocated to the community spouse and other family members from the income amount for the person with LTC status as determined in (1).

(b) The community spouse allowance shall only be deducted from the income of the spouse with LTC status to the extent such amount is actually transferred to the community spouse.

(c) The family member allowance shall be deducted from the income of the spouse with LTC status regardless of whether such amount is actually transferred to the family members.

(d) In no event shall any income be allocated from the community spouse or family members living in the home to the spouse with LTC status.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions code.

Reference: Sections 14005.1, 14005.4, 14005.7 Welfare and Institutions code; and 1396r-5, United States Code.

50601. Maintenance Need -- General. (a) The amount of income a person or family is allowed to retain for living expenses shall be determined by adding the following:

(1) The maintenance need for the members of the MFBU living in the home as determined in accordance with Section 50603.

(2) The maintenance need for the members of the MFBU with in long term care status as determined in accordance with Section 50605.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Sections 14005.12 and 14005.4, 14005.7, Welfare and Institutions Code; and Section 1396r-5, United States Code.

50605. Maintenance Need -- Persons Who Have in Long Term Care Status (a) The maintenance need for a member of the MFBU ~~in-long-term-care~~ who has LTC status shall be either of the following:

(1) Thirty-five dollars for personal and incidental needs, when the beneficiary will remain in long-term care for the entire month.

(2) For individuals with therapeutic wages, thirty-five dollars plus an additional amount equal to either a) 70 percent of the gross therapeutic earnings; or, b) 70 percent of the maintenance need level allowed for a noninstitutionalized person or family of corresponding size, as described in Section 50603, whichever is less.

(A) The provisions of subsection (a)(2) of this regulation also apply to eligibility determinations or redeterminations made retroactively to October 1, 1984.

(3) The appropriate maintenance need determined in accordance with Section 50603, if the person will be in long-term care for only a portion of the month.

(b) ~~AA-A~~ a person with LTC person status shall retain an amount of income for upkeep of a home in addition to the amount specified for personal and incidental needs in (a) (1) if all of the following conditions are met:

(1) The spouse or family of the a person who has LTC status patient is not living in the home.

(2) The home, whether rented or owned by the person who has LTC status patient, is actually being maintained for the return of the person who has LTC status patient.

(3) There is a verified medical determination that the person who has LTC status patient will return home within six months of the date LTC patient status was established.

(c) The amount allowed for upkeep of the home, if the conditions specified in (b) are met, shall be:

(1) One hundred thirty-three and one-third percent of the income in kind value of housing for one person pursuant to Section 50511(a) and (b), if the applicant or beneficiary has been living alone in the home.

(2) One hundred-thirty-three and one-third percent of the income in kind value of housing for 2 persons pursuant to Section 50511(a) and (b) divided by 2, if the home is shared with persons for whom the applicant or beneficiary has no legal responsibility for support.

(3) One hundred thirty-three and one-third percent of the income in kind value of housing for two persons pursuant to Section 50511(a) and (b) divided by 2 for each spouse, if the beneficiary and spouse have been living together and both have become persons with LTC status patients and will return home within six months.

(4) The amount allowed for upkeep of the home as determined according to (1) through (3) shall be calculated on an annual basis, rounded to the next

higher multiple of \$100, and then prorated.

(d) The A person with LTC status patient shall also retain an amount of income to pay for the support of a disabled relative if all the following conditions are met:

(1) The disabled relative is not the LTC patient's:

(A) Spouse.

(B) Child, as defined in Section 50030.

(2) The LTC patient has contributed and will continue to contribute to the support of the disabled relative on a regular basis.

(e) The amount allowed for the support of a disabled relative, if the conditions specified in (d) are met, shall be the lesser of:

(1) The actual amount contributed.

(2) The maintenance need level for one person established in accordance with Section 50603(a)(1), minus the disabled relative's net income.

Add new subsection (f) to read:

(f) A spouse with LTC status shall have deducted from his or her monthly income an amount of income to pay for the support and maintenance of his/her community spouse, minor or dependent children, dependent parents, or dependent siblings of either spouse, provided the individuals reside with the community spouse.

(1) The amount of income deducted for the support of the community spouse shall not exceed a base amount of \$1500 increasing each calendar year by the same percentage increase as the consumer price index.

(2) The amount allowed for the support of minor or dependent children, dependent parents, or dependent siblings shall be based on one-twelfth of the following applicable percent of the federal nonfarm poverty level for two:

(A) As of January 1, 1990, 122 percent

(B) As of July 1, 1991, 133 percent

(C) As of July 1, 1992, 150 percent

(3) The amount allowed in (1) shall be adjusted where:

(A) A court has entered an order against the spouse with LTC status for the support of the community spouse and the court ordered support exceeds the amount allowed in (1), or

(B) A state fair hearing establishes that the community spouse needs income above the minimum monthly allowance established in accordance with (1) due to exceptional circumstances resulting in financial duress as defined in Section 50605.5.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions Code.

Reference: Sections 14005.12 and 14005.13, Welfare and Institutions code; and Section 1396r-5, United States Code.

50605.5. Adjusted Community Maintenance Need Level -- Exceptional Circumstances Resulting in Financial Duress

(a) The community spouse maintenance need, as determined in accordance with Section 50605 (f)(1), shall be increased to compensate the community spouse for exceptional circumstances that result in financial duress once such circumstances are determined to exist by a state administrative law judge at the state hearing level.

(b) Exceptional circumstances that result in financial duress shall be defined as expenses which are unforeseen or ongoing and are reasonable and necessary for the health, safety and/or well-being of the community spouse.

(c) Exceptional circumstances that result in financial duress shall include but not be limited to:

(1) Costs associated with the purchase of housing modifications, such as wheel chair ramps, safety rails, emergency call systems, etc. to the extent the community spouse maintenance need is inadequate to cover such purchase;

(2) Costs associated with the ongoing purchase of prescribed special diet foods, and/or dietary supplements to the extent the community spouse maintenance need is inadequate to cover such purchase;

(3) Utility costs associated with the use of prescribed electrical medical equipment to the extent the community spouse maintenance need is

inadequate to cover such costs.

(4) Repairs necessary to maintain the home in a livable condition such as roofing, plumbing repairs, etc. This shall not include optional or cosmetic changes such as remodeling.

(5) Unusual and unforeseeable circumstances such as fire, flood, or other special circumstances which result in the loss of normal housing, clothing, household goods and other necessary possessions.

(e) The community spouse maintenance need shall be increased based upon written evidence which verifies both the expenditure and the necessity of the expenditure. Written evidence shall include but is not limited to:

(1) Doctor's statements verifying medical need;

(2) Prescription (where applicable)

(3) Bills;

(4) Receipts

(5) Insurance papers

(d) Exceptional circumstances resulting in financial duress shall not include the usual increases for:

(1) rent;

(2) food;

(3) housing;

(4) clothing;

(5) other customary living expenses.

(f) Once a finding of exceptional circumstances resulting in financial duress has been established, the state administrative law judge (ALJ) shall:

(1) Establish a new maintenance need for the community spouse which shall include an amount sufficient to cover such expenses;

(2) Specify whether such maintenance need level will be temporary or continuing.

(3) If the order specifies that the maintenance need is temporary, the ALJ shall:

(A) Establish the duration of the new maintenance need; and

(B) Advise the claimant that, he/she must request an extension through the state hearing process if the exceptional circumstance continues.

(g) The revised community spouse maintenance need shall be valid only as long as the unforeseen circumstance(s) continue to exist.

(h) When the exceptional circumstance(s) no longer exist, the community

spouse must notify the county in accordance with Section 50185

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

Reference: Sections 14005.12 and 14005.13, Welfare and Institutions Code; and Sections 1396r-5, United States Code.

Section 50732. Medi-Cal - Signature Requirement.

(a) Each Medi-Cal beneficiary must sign and date his/her Medi-Cal card in the space provided upon receipt and prior to presentation of the card for any services.

(b) The requirement in (a) above shall not apply to the following:

(1) Medi-Cal beneficiaries who are under 18 years of age.

(2) Medi-Cal beneficiaries who have ~~are-in~~ Long term Care status as defined in Section 50056.

(3) Institutionalized spouse as defined in Section 50046.5.

(c) For purposes of subsection (a), for persons who are unable to sign their name or make a mark in lieu of a signature, "sign" shall mean a determination by the provider of services that the individual is unable to sign the Medi-Cal card because of a disability.

(d) It shall be a misdemeanor for a beneficiary to sell, furnish, give or lend the beneficiary's Medi-Cal card to any other person or persons for their use.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code.

Reference: 14002 and 14018, Welfare and Institutions Code; and Section 1396r-5, United States Code.

Section 50737. Format of Medi-Cal Card.

(a) A Medi-Cal card issued by the Department or by the county department in accordance with these regulations shall be used to authorize services.

(b) The Medi-Cal card for persons with no share of cost shall contain:

(1) Complete and accurate information identifying the beneficiary, the program under which eligibility has been established and other health care coverage entitlement.

(2) Valid month and year and whether it is a past month Medi-Cal card.

(3) Information on limited service or PHP status, if applicable.

(4) Two MEDI labels, if the card is a full complement card.

(5) Proof of eligibility (POE) labels.

(c) The Medi-Cal card for persons who have met their share of cost and are required to complete form MC 177S, shall contain:

(1) The items listed in (b).

(2) The date of certification for claims clearance.

(d) The Medi-Cal card for person who have in long-term care status, with a share of cost less than or equal to the monthly cost of care at the Medi-Cal reimbursement rate for the long-term care facility, shall contain:

(1) The items listed in (b).

(2) The amount of the share of cost.

Note: Authority cited: Sections 10725, 14005.9(c), 14124.5 and 14312, Welfare and Institutions Code.

Reference: Sections 14005.9, 14010 and 14017, Welfare and Institutions Code;
and Section 1396p, United States Code.

Section 50742. Limitations on Eligibility Reports and Card Issuance Requests Submitted by the County Department.

(a) The county department shall not submit a report of eligibility to the Department for a person for a given month, or request the Department to issue a Medi-Cal card for a person for a given month, as long as any one of the following applies to that person for that month:

(1) The county has information which requires discontinuance of the person for that month.

(2) The person is subject to discontinuance for the month due to loss of contact or noncooperation.

(b) The county department shall not request the Department to issue a Medi-Cal card for a person for a month during the following periods:

(1) From time of county receipt of information which requires that the person be assigned a share of cost and receive a form MC 177S for a month, until the completed MC 177S is submitted to the county department.

(2) From time of county receipt of information which requires that a person with an LTC status receives an increased share of cost, until determination of the increased share of cost is made.

(c) The county department shall not withhold a report of eligibility for the beneficiary for the coming month if information requiring an adverse action is received too late in a month for the county department to make that action effective the coming month because timely notice of the adverse action cannot be provided to the beneficiary.

(d) This section applies to all Medi-Cal eligibles including public assistance recipients.

(e) The report of eligibility data required by this section shall be completed in accordance with schedules issued by the Director.

Note: Authority cited: Sections 10725 and 14124.5, Welfare and Institutions Code;

Reference: 10600, 10850, 11004, 11050, 11051, 11052, 11054, 11055, 12305, 14000.2, 14001, 14005, 14005.1, 14005.4, 14005.7, 14011, 14012, 14014, 14016, 14050.1, 14051 and 14052, Welfare and Institutions code; and Section 1396p, United States Code

Section 50745. Medi-Cal Card Issuance by the County Department -- Share of Cost. (a) The county department may issue current or past month Medi-Cal cards, as limited by Section 50746, to persons who ~~are-in~~ have long-term care status and have a share of cost which is less than or equal to the monthly cost of care at the Medi-Cal reimbursement rate for the long-term care facility unless the person ~~in~~ with long-term care status also has a spenddown of property.

(b) The county department shall issue current month Medi-Cal cards with MEDI or POE labels to persons with a share of cost met by use of form MC 177S, if the person who requests the card signs a form MC 110 which indicates a need for medical services prior to normal anticipated receipt of a Department issued Medi-Cal card. In this case the county department shall process form MC 177S in accordance with Section 50658.

(c) The county department may issue current or past month Medi-Cal cards with POE labels only, as limited by Section 50746, to persons with a share of cost if certification by the county department or BRU has occurred.

(d) The Director may order the suspension of county issuance of Medi-Cal cards for persons with a share of cost, if the Director determines that the cost of the procedure is exceeding allowable costs under the Department's program for control of county department Medi-Cal administrative costs.

(1) The Director shall inform a county department of the suspension in that

county, in writing, 30 days prior to the effective date of the suspension.

(2) The Director may reinstate the county issuance of Medi-Cal cards for persons with a share of cost, if it is determined that sufficient funds are available. Notifications of the reinstatement shall be in writing.

Note: Authority cited: Sections 10725 and 14124.5 Welfare and Institutions
Code:

Reference:

Local Mandate

The Department has determined that the proposed regulation change does not impose a mandate on local agencies or school districts which must be reimbursed by the state pursuant to Section 17500 et. seq. of the Government Code.

Impact on Small Business and Private Persons

The Department has determined this regulation change will have no impact on small businesses or private persons. No alternatives to regulations were considered as the amendment is required to render Medi-Cal regulations consistent with federal law as required by Sections 11439(a) and 11439.1(a) of the Government Code.

Statement of Alternatives

The Department has determined that no alternative would be more effective or less burdensome on the proposed regulations.

Finding of Emergency

Use the following language:

"Section 12 of SB 1413 (Ch. 1430, Statutes of 1989) requires the Department to adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, title 2 of the Government Code. Section 12 of SB 1413 states that promulgation of these regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health, safety or general welfare and that these regulations shall become effective immediately upon filing with the Secretary of State.